

# Senate Study Bill 3128

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
LOCAL GOVERNMENT BILL BY  
CO=CHAIRPERSON SHULL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to fees for electronic public records.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
3 TLSB 5916SK 81  
4 eg/gg/14

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1 1 Section 1. Section 22.3A, subsection 2, Code 2005, is  
1 2 amended to read as follows:  
1 3 2. A government body may provide, restrict, or prohibit  
1 4 access to data processing software developed by the government  
1 5 body, regardless of whether the data processing software is  
1 6 separated or combined with a public record. A government body  
1 7 shall establish policies and procedures to provide access to  
1 8 public records which are combined with its data processing  
1 9 software. A public record shall not be withheld from the  
1 10 public because it is combined with data processing software.  
1 11 A government body shall not acquire any electronic data  
1 12 processing system for the storage, manipulation, or retrieval  
1 13 of public records that would impair the government body's  
1 14 ability to permit the examination of a public record and the  
1 15 copying of a public record in either written or electronic  
1 16 form. If it is necessary to separate a public record from  
1 17 data processing software in order to permit the examination or  
1 18 copying of the public record, the government body ~~shall bear~~  
1 19 ~~may charge a fee to a person receiving the public record for~~  
1 20 ~~the cost of separation of the public record from the data~~  
1 21 ~~processing software, including a proportional share of the~~  
1 22 ~~fixed cost the government body has incurred for computer~~  
1 23 ~~equipment, maintenance, and insurance.~~ The electronic public  
1 24 record shall be made available in a format useable with  
1 25 commonly available data processing or database management  
1 26 software. The cost chargeable to a person receiving a public  
1 27 record separated from data processing software under this  
1 28 subsection shall ~~not be in excess of addition to the charge~~  
1 29 ~~for examining and copying a public record under section 22.3~~  
1 30 ~~and any other fee required under this chapter unless including~~  
1 31 ~~the person receiving the public record requests that the~~  
1 32 ~~public record be cost incurred to specially processed process~~  
1 33 ~~a public record.~~ A government body may establish payment  
1 34 rates and procedures required to provide access to data  
1 35 processing software, regardless of whether the data processing  
2 1 software is separated from or combined with a public record.  
2 2 Proceeds from payments may be considered repayment receipts,  
2 3 as defined in section 8.2. The payment amount shall be  
2 4 calculated as follows:  
2 5 a. The amount charged for access to a public record shall  
2 6 be not more than ~~that required to recover internet website~~  
2 7 ~~development costs and that required to recover direct~~  
2 8 ~~publication costs, including. Direct publication costs~~  
2 9 ~~include but are not limited to editing, compilation, and media~~  
2 10 ~~production costs, incurred by the government body in~~  
2 11 ~~developing the data processing software and preparing the data~~  
2 12 ~~processing software for transfer to the person. The amount~~  
2 13 ~~shall be in addition to any other fee required to be paid~~  
2 14 ~~under this chapter section 22.3 for the examination and~~  
2 15 ~~copying of a public record. If a person accesses a public~~  
2 16 ~~record stored in an electronic format that does not require~~  
2 17 ~~formatting, editing, or compiling to access the public record,~~

2 18 the charge for providing the accessed public record shall not  
2 19 exceed the sum of the reasonable cost of accessing that public  
2 20 record and an amount required to recover costs for internet  
2 21 website development. The government body shall, if requested,  
2 22 provide documentation which explains and justifies the amount  
2 23 charged. This paragraph shall not apply to any publication  
2 24 for which a price has been established pursuant to another  
2 25 section, including section 2A.5.

2 26 b. If access to the data processing software is provided  
2 27 to a person for a purpose other than provided in paragraph  
2 28 "a", the amount may be established according to the discretion  
2 29 of the government body, and may be based upon competitive  
2 30 market considerations as determined by the government body.

2 31 EXPLANATION

2 32 This bill allows a government body, e.g., a county, city,  
2 33 or other governmental entity, to charge a fee to a person  
2 34 receiving a public record for the cost of separating the  
2 35 public record from the data processing software, including a  
3 1 proportional share of the fixed cost incurred for computer  
3 2 equipment, maintenance, and insurance. This fee is in  
3 3 addition to a charge for examining and copying a public  
3 4 record.

3 5 Currently, the government body can charge a fee for access  
3 6 to data processing software to recover direct publication  
3 7 costs. The bill allows a government body to charge an  
3 8 additional fee amount for access to data processing software.  
3 9 The fee is that amount required to recover internet website  
3 10 development costs. If the fee for direct publication costs is  
3 11 not applicable, a fee to recover internet website development  
3 12 costs may still be charged. The fee is in addition to an  
3 13 amount for examination and copying a public record.

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